

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

JOSEPH C. RAY,	§	
<i>Plaintiff</i>	§	
	§	
VS.	§	CIVIL ACTION NO. 9:12cv00022
	§	
TEXAS HOME HEALTH OF	§	
AMERICA, LP,	§	
<i>Defendant</i>	§	

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE COURT:

Comes now the Plaintiff, JOSEPH C. RAY, and files this Plaintiff's Original Complaint complaining of TEXAS HOME HEALTH OF AMERICA, LP, Defendant, and for cause of action shows:

INTRODUCTION

1. Plaintiff brings this action to recover unpaid overtime compensation from Defendant pursuant to the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201. et. seq. Plaintiff contends that Defendant failed to pay Plaintiff overtime compensation for work that Plaintiff performed in excess of forty hours per work week.

JURISDICTION

2. This Court has jurisdiction of this matter under 29 U.S.C. § 216(b).

VENUE

3. Venue is proper in this court under 28 U.S.C. § 1441(a).

PARTIES

4. Plaintiff Joseph C. Ray is a citizen of Lufkin, Angelina County, Texas.

5. Defendant may be served with citation by serving its registered agent, Capitol Corporate Services, Inc., 800 Brazos, Suite 400, Austin, Texas 78701.

FACTUAL BACKGROUND

6. At all times relevant to this action, Defendant has been subject to the requirements of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*
7. For purposes of this action, the “relevant period” is defined as that period commencing on February 5, 2010.
8. Throughout the relevant period, Plaintiff was employed by Defendant.
9. Although Plaintiff worked many overtime hours, he was not paid for hours worked in excess of forty hours per week.
10. Plaintiff is therefore entitled to overtime at one and a half his hourly wage for all hours worked in excess of 40 worked during each seven day workweek.
11. Defendant knew or should have known that its overtime policy as it related to Plaintiff violated the FLSA.

STATEMENT OF CLAIM

12. By failing to pay Plaintiff, the Defendant violated their rights under the FLSA and implementing regulations.
13. Plaintiff seeks an amount of backpay equal to the underpayment of overtime during the relevant period, together with an equal amount as liquidated damages. Additionally, Plaintiff is entitled to recover attorney’s fees and cost as provided by 29 U.S.C. § 216(b).
14. All conditions precedent to the bringing of this suit has been satisfied or has been fulfilled.

JURY DEMAND

15. Plaintiff demands a jury trial.

PRAYER

Wherefore, premises considered, Plaintiff respectfully requests that Defendant be cited to appear and answer herein and that upon final hearing, the Court grant Plaintiff relief as follows:

- A. Declare that Defendant has violated the Fair Labor Standards Act, specifically 29 U.S.C. § 207, by failing to pay Plaintiff overtime at one-and-one-half

times their regular hourly rate for all hours in excess of 40 worked during each seven day work period.

B. Order Defendant to pay Plaintiff the difference between what he should have received for overtime hours during the relevant period and what he was actually paid, together with liquidated damages.

C. Order Defendant to pay Plaintiff's reasonable attorney fees and costs pursuant to 29 U.S.C. § 216(b).

D. Order Defendant to pay post-judgment interest at the highest lawful rate including attorney fees, awarded against Defendant.

E. Order all further relief, whether legal, equitable or injunctive, as may be necessitated to effectuate full relief to Plaintiff.

Respectfully Submitted,

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